

A4R  
8.133  
VII/20  
Copy 3



South Carolina House of Representatives

# Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 11

June 1, 1994

No. 20

## CONTENTS

House Week in Review.....	2
Bills Introduced.....	4
Status of Legislation:	
Legislation Passed This Session.....	7
Legislation Passed by the House and Amended by the Senate or Still in Conference Committee.....	18
Status of Other Legislation.....	23

S. C. STATE ARCHIVES  
AUG 10 1994  
STATE DOCUMENTS

OFFICE OF RESEARCH

Room 309, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, ( 803)734-3230

## Legislative Update, May 31, 1994

### House Week in Review

---

With time running out on the 1994 session, House-Senate conference committees were busy last week trying to resolve differences in several bills. On Tuesday, May 24, the House gave approval to the conference committee report on H. 4036, a bill to establish the Governor's School for the Arts and Humanities, and the following day the House gave approval to the conference committee report on H. 4681, a bill to establish a school-to-work transition system in South Carolina. On Thursday, May 26, the House adopted the free conference committee report on H. 4070, which makes revisions to the State's Ethics Act.

Going into the final week of the session, however, the House-Senate Conference Committee on the Budget was deadlocked, with the major dispute being extension of the deadline for allowing the importation of out-of-region waste into the Barnwell Low-Level Radioactive Waste Facility. The House conferees---Ways and Means Chairman Billy Boan and Representatives Gilda Cobb-Hunter and Harry Hallman---remained opposed to extending the deadline for out-of-region waste, while a majority of the Senate conferees favored the extension, claiming the extension would bring much-needed revenue to the state's coffers. Also deadlocked were Conference Committees meeting on H. 4821, a joint resolution appropriating money from the Capital Reserve Fund, and H. 4822, a joint resolution to make supplemental appropriations from Fiscal Year 1994 surplus revenues. On Tuesday afternoon, May 31 (shortly before this Update went to press), House Ways and Means Chairman Billy Boan updated House members on the budget negotiations, including the impasse on Barnwell. Several hours of questions, speeches and debates then followed. Legislators in favor of the Barnwell extension pointed to the extra revenue the extension would bring to the state coffers and the jobs which would be retained in the Barnwell area, while opponents expressed concern about the state's reputation as a nuclear dumping ground. Late that afternoon, the Speaker proposed that the House instruct its budget conferees to exclude the Barnwell extension from the conference report. A motion to table that proposal was rejected by a vote of 52-60. With the Senate having refused to extend the sine die adjournment for the 1994 session, only two days---Wednesday, June 1 and Thursday, June 2---remained for the General Assembly to reach a budget compromise before the mandatory adjournment time of 5 pm this Thursday.

On Tuesday, the General Assembly ratified a number of acts, including, among others, H. 4756, an act listing procedures for the conducting of cremations in South Carolina; H. 4775, the Health Care Cooperative Act, which allows medical facilities to enter into cooperative agreements for the sharing of facilities; and S. 914, an act requiring persons convicted of certain sex crimes to be tested for sexually transmitted diseases.



### Legislative Update, June 1, 1994

The General Assembly convened on Wednesday afternoon, May 25, for judicial elections and elections to the State Consumer Affairs Commission. By acclamation, the General Assembly elected the following persons to the judicial positions listed below:

Family Court Judge, 8th Judicial Circuit, Seat 1.....Wyatt Saunders, Jr.  
(Abbeville, Greenwood, Laurens and Newberry Counties)  
Family Court Judge, 11th Judicial Circuit, Seat 3...Richard Chewing, III  
(Edgefield, Lexington, McCormick and Saluda Counties)  
Family Court Judge, 16th Judicial Circuit, Seat 1.....J.S. Flynn  
(Union and York Counties)  
Administrative Law Judge, Seat 4.....John Geathers  
Administrative Law Judge, Seat 5.....Karen Kanes  
Administrative Law Judge, Seat 6.....Ralph Anderson, III

The election to fill a vacancy on the Supreme Court was very competitive, with 5 candidates seeking the post to be vacated by Associate Justice Ernest Finney, who will assume the post of Chief Justice at the end of 1994. The large number of candidates for the post was attributed to the fact that, barring early retirement of one of the current justices, the next vacancy on that Court would not occur until the year 2003, when then Chief Justice Finney would reach the mandatory retirement age of 72. The General Assembly required six ballots to elect a new associate justice, in the end electing Randall Bell to the position. Mr. Bell currently serves as a judge on the South Carolina Court of Appeals, having served on that Court since 1983.

The General Assembly that day also elected Roland Skipper and Lonnie Randolph, Jr. to the State Consumer Affairs Commission.

On Thursday, May 26, the House adopted a concurrent resolution (H. 5237) to extend the final (or "sine die") adjournment date beyond June 2. Under this resolution, the General Assembly would come back the week of June 6-10 for local and uncontested matters (with ratification of acts June 8), and return for statewide session on June 13 (and up through June 17) to consider gubernatorial vetoes, conference committee reports and the like. Finally, the General Assembly would return for statewide session on June 24 to consider gubernatorial vetoes and would adjourn for the year not later than Tuesday, June 28. At press time, however, the Senate had not yet adopted the resolution. If the resolution fails to win approval of both houses, the General Assembly will adjourn for the year on Thursday, June 2.

On Tuesday, May 31, the U.S. Justice Department gave approval to H. 4349, the House redistricting plan adopted by the General Assembly earlier in May. The Department's approval allows filing for these and other offices to begin on Wednesday, June 1 (and continuing through June 15).

## Legislative Update, June 1, 1994

### Bills Introduced

---

The following bills were introduced in the House the week of May 24-26 or on Tuesday, May 31. Not all bills introduced in the House are featured here. The bill summaries are arranged according to the committee to which the legislation was referred.

#### Judiciary

Limits on Terms of Members of State Boards and Commissions (S. 339, Sen. Giese). This bill prohibits anyone from being appointed by the governor or elected by the General Assembly to a state board of commission if that person has served two successive full terms, or 12 successive years, whichever is longer. Persons currently serving on these boards or commissions whose tenure exceeds these limitations may complete their current term. A person who has served the maximum time permitted on a board or commission may be elected or appointed to the same body after a 2-year absence. Life members of the Clemson University Board of Trustees are exempt from these term limitation requirements.

Educational Requirements for Licensure as a Bail Bondsman (S. 1299, Sen. Bryan). This bill requires a person seeking licensure as a bail bondsman to complete at least 12 hours of education in subjects pertinent to the duties and responsibilities of a bail bondsman. Prior to renewal of a license, each license must be completed biennially at least 6 hours of continuing education in subjects related to the duties and responsibilities of a bail bondsman. The continuing education requirement does not include an examination. Anyone licensed as a bail bondsman prior to implementation of these provisions is exempt from the 12-hour education requirement but must complete the continuing education requirements to renew his license. Furthermore, a licensed bail bondsman age 65 or older and who has been licensed as a bail bondsman for at least 15 years is exempt from both these education and continuing education requirements. The bondsman association for the State must provide education for bail bondsman licensure, while the Department of Insurance must approve the course offered and ensure this education meets the general standards for education established by the Department.

Redevelopment Authorities (S. 1433, Sen. Rankin). This bill allows for the establishment of redevelopment authorities to oversee the disposal



## Legislative Update, June 1, 1994

of federal property (i.e., military installations) that has been or will be turned over to the State or which has been designated as surplus property by the federal government and is to be disposed of by the State.

Under these provisions, the governor may designate one or more redevelopment authorities. No more than one authority may be created with jurisdiction over a single federal military installation. If an authority is designated, then it must be the sole representative of the State for negotiations with the appropriate federal authority for reuse and disposal of property. The bill provides for the composition and selection of authority members and prohibits a member of an authority from being an elected official or from having held an elected office within six months of the date on which the member begins his service on the authority. Any entity established by the governor's executive order relating to or concerned with the effects of the closure of federal military installations expires on March 1, 1995.

The bill also lists the powers and duties of an authority. Among other things, an authority may make regulations relating to the use of land; prepare and recommend redevelopment plans and undertake and carry out redevelopment projects within its area of operation; make surveys, borrow money; make surveys, studies and plans to carry out these provisions; and to perform redevelopment projects undertakings and activities. The bill also prohibits the State, any political subdivision, any public or quasi-public entity or affiliated entity whose board is appointed pursuant to an act of the General Assembly, or any non-profit public or non-profit private corporation chartered for the purpose of furthering economic development from making a profit on the sale of real estate to a redevelopment authority created pursuant to this act. Additionally, no monies from the authority's assets developed through the sale, lease or fees generated from the profits may be transferred to any government entity above, beyond or outside of the authority itself.

A redevelopment authority may dissolve itself upon a two-thirds majority of the authority's members if no property remains for redevelopment or if the authority decides to transfer remaining redevelopment authorities to another public body or successor entity created by statute. The bill provides for the disposition of property once the authority has voted to dissolve. An authority is required to comply with the State Procurement Code and related regulations issued by the Budget and Control Board. Additionally, a municipality may issue obligations under these provisions upon request of a redevelopment authority to finance a redevelopment project.

## Labor, Commerce and Industry

Regulations May Be Promulgated to Require Persons Seeking Licensure as Engineers or Land Surveyors to Demonstrate Competency (S. 1369, Sen. V. Smith). This bill allows the State Board of Registration for Professional

### Legislative Update, June 1, 1994

Engineers and Land Surveyors to promulgate regulations requiring a person seeking renewal or re-registration as a registered professional engineer or professional land surveyor to demonstrate competency in their fields.

### Without Reference

Recodification of State's Taxation Statutes (S. 675, Sen. Land). This bill mainly "cleans up" language in the state's taxation statutes but does not make substantive changes in those statutes.



## Legislative Update, June 1, 1994

With the 1994 legislative session down to the final days, this Update looks at legislation passed by the General Assembly in the last few weeks, legislation passed by the House and amended by the Senate, and legislation still pending in Conference Committee.

### (1) List of Legislation Passed by General Assembly (as of Tuesday, May 31)

Listed below are summaries of various acts which either have been signed into law, ratified or enrolled for ratification within the last few weeks.

Safety Requirements for Bungee Jumping (H. 3094, Rep. Kirsh). This act seeks to provide greater protection for persons engaged in the act of bungee jumping. Support for these provisions was prompted in part by the deaths last year of two persons in a bungee jumping accident last year in Horry County.

The act prohibits the practice of bungee jumping from a device other than a fixed platform and also prohibits bungee jumping while using an ankle harness, multiple bungee jumping, and bungee jumping over water, sand or any surface other than a safety air bag. Also prohibited is the use of a mechanical lifting device in conjunction with bungee jumping. No person may operate a bungee jumping facility without obtaining a permit from the Department of Labor, Licensing and Regulation. The act lists information which must be provided on the application and sets temporary fees for applications. The act requires the Department to conduct on-site inspections of each bungee jumping facility at least once annually and to conduct unannounced on-site inspections at least twice annually. No person may obtain an operating permit unless he has purchased liability insurance of at least \$1 million per occurrence, insuring the owner against liability for injury to persons arising out of use of the bungee jumping facility. Persons under age 16 must have the consent of a parent or guardian before being allowed to use the facility. The owner must disclose to each jumper all medical conditions which may be adversely affected by jumping. Any jumper who in the opinion of the bungee jump staff represents a danger to himself or others is not allowed to jump. Each facility operator must have a telephone link to 911 within 200 feet of the bungee jump operation.

The act also lists requirements pertaining to bungee jump equipment, staffing requirements and the like and provides that any person who knowingly and willingly operates a bungee jumping facility in violation of

### Legislative Update, May 17, 1994

these provisions is subject to a civil penalty not to exceed \$2,000 for each day the violation continues.

Status: Signed into law on May 24, 1994.

Speeding Prohibited in Highway Work Zones (H. 3374, Rep. Harrison). This act attempts to enhance protection of persons working on highway projects. Under these provisions, it is unlawful to speed or pass within a highway work zone. Violation of these provisions is punishable by a fine of between \$75 and \$200, or imprisonment not exceeding 30 days, or both. The act defines a "highway work zone" as the area between the first sign which informs motorists of the existence of the work zone on the highway and the last sign which informs motorists of the end of the work zone.

Status: Signed into law on May 25, 1994.

Reapportionment of the State House of Representatives (H. 4349, Rep. Wilkins). This act redraws the boundaries of the 124 districts of the South Carolina House of Representatives. H. 4349 was developed following the Justice Department's rejection last month of the House redistricting plan as provided under H. 4333. Under H. 4349, the number of districts where African-Americans constitute a majority of the voting age population increases from 22 to 31. On Tuesday, May 31, the U.S. Justice Department gave its approval to this plan, which allows filing for political office to begin on Wednesday, June 1, as provided in H. 4535 (a joint resolution which also moved the date of the state primary to August 9). (For a more detailed look at recent redistricting history in South Carolina, and the composition of the new districts, please see the special reapportionment report listed in the May 17 Update.)

Status: Signed into law on May 19, 1994.

Partial Refund of Biennial License Plate and Registration Fees (H. 4377, Rep. Kirsh). Under these provisions, when the owner of a motor vehicle licensed and registered for a biennium (2-year period) surrenders his license plate and registration in the first 12 months of the licensing period, then the Department of Revenue and Taxation is required to refund to the owner an amount equal to one-half (1/2) the registration fee paid on the vehicle. If the owner is simultaneously registering another vehicle, then the refund amount may be applied against the registration fee due. This requirement applies to biennial licenses issued after July of 1993. Furthermore, the act sets the biennial registration fee for a private passenger-carrying vehicle of a person age 64 at \$22. (Currently, the biennial registration fee of a vehicle of a person under age 65 is \$24, while the fee is \$20 for the vehicle of a person age 65 or older.)



### Legislative Update, June 1, 1994

The act also prohibits a tax levy on a motor vehicle to which a license was transferred until the license expire and sets limits on driving hours for intrastate motor carrier drivers. As an example, the act prohibits an intrastate motor carrier driver from driving more than 80 hours in 8 consecutive days.

Status: Signed into law on May 25, 1994.

Unlawful to Employ Minor in a State of Sexually Explicit Nudity in a Public Place (H. 4878, Rep. Harrell). This act makes it a felony for anyone to employ a person under age 18 to appear in a state of sexually explicit nudity in a public place. Violation of these provisions is punishable by imprisonment of not more than five years, or a fine not exceeding \$5,000, or both. The act also includes this offense in the definition of exhibiting a harmful performance to a minor (as listed under Section 16-15-385, Code of Laws.)

Status: Signed into law on May 19, 1994.

Group Health Insurance Policies Must Include Offer of Coverage for Psychiatric Conditions (S. 25, Sen. Bryan). This act requires any group health insurance policy offered for sale in South Carolina to include an offer of optional coverage for psychiatric conditions. As pertains to this optional coverage, "Psychiatric coverage" means mental and nervous conditions, drug and substance addiction or abuse, alcoholism or other conditions defined, described or classified as psychiatric disorders or conditions in the American Psychiatric Association's most current publication of "The Diagnostic and Statistical Manual of Mental Disorders."

This offer of coverage may contain provisions which describe different benefits for psychiatric conditions and physical conditions with respect to any deductible amount, coinsurance provision or contract term affecting benefit determinations, based on use or nonuse of preferred providers. An offer of such optional coverage must provide minimum benefits for psychiatric conditions of at least \$2,000 for each member for each benefit year, with a lifetime maximum benefit of \$10,000. However, an insurer may issue or continue to issue a health insurance policy which provides greater benefits than these minimum requirements or which generally are more favorable to the insured than these minimum requirements.

Status: Signed into law on May 10, 1994.

Civil Cause of Action for Shoplifting (S. 32, Sen. Wilson). This act creates a civil cause of action against shoplifters. Under these provision, an adult or "emancipated minor" (i.e., person over age 16 at

### Legislative Update, June 1, 1994

the time of the alleged shoplifting and who was no longer a dependent of or in custody of a parent or legal guardian) who commits shoplifting is civilly liable to the operator of an establishment in an amount consisting of the retail price of the merchandise, if not recovered in merchantable condition up to an amount not exceeding \$1,500, plus a penalty not exceeding the greater of three times the retail price of the merchandise or \$150; but in no case may the penalty exceed \$500. Furthermore, custodial parents or legal guardians of an unemancipated minor who knew or should have known of the minor's propensity to steal are civilly liable for the minor committing shoplifting in the same amount as provided for shoplifting committed by an adult or emancipated minor. A conviction or plea of guilty for committing shoplifting is not a prerequisite to bringing of a civil suit, obtaining a judgment or collecting that judgment under these provisions. Additionally, the fact that a store operator may bring this action against an individual does not limit the operator's right to demand that the person liable for damages and penalties under these provisions remit the damages and penalties before commencement of a legal action. These provisions do not prohibit or limit any other cause of action a store operator may have against a person who steals merchandise from a store or establishment.

In bringing this action, the court must consider mitigating circumstances which bear directly upon the actions of the custodial parent or legal guardian in supervising the unemancipated minor who committed the shoplifting. Testimony or statements of the defendant or his unemancipated minor child or any evidence derived from an attempt to reach a civil settlement or from a civil proceeding under these provisions is inadmissible in any other court proceeding relating to the shoplifting. A store bringing a civil action under these provisions is prohibited from subsequently filing criminal charges for shoplifting against the individual.

Status: Signed into law on May 18, 1994.

**Minimum Property Acreage Requirements to Qualify for Assessment as Agricultural Property** (S. 920, Sen. Leventis). This act specifies minimum acreage and income requirements which must be met for land to be taxed as agricultural property. Under these provisions, a tract of timber must be at least 5 acres to qualify for taxation as agricultural property, while a tract not used to grow timber must be at least 10 acres to qualify for this classification. For purposes of this classification, tracts of timberland must be used for growing trees for commercial use. The act also lists exceptions to this acreage requirements, examples of which are listed below:

(1) Nontimberland tracts under 10 acres which report at least \$1,000 of gross farm income for at least 3 of 5 taxable years may qualify for this classification;

(2) A Christmas tree tract not meeting the 5 acre requirement nonetheless qualifies for agricultural classification if the landowner



### Legislative Update, June 1, 1994

meets the above-mentioned income requirement (i.e., at least \$1,000 for 3 years out of a 5 year period).

(3) A nontimberland tract not meeting the 10-acre requirement qualifies for this classification if the current owner or an immediate family member has owned the property since January 1, 1984 and the property is classified as agricultural real property for the 1994 property tax year or the current owner, in which case the property is classified as agricultural until the property is applied to some other use or transferred to other than an immediate family member, whichever comes first.

Real property initially classified as agricultural real property but made ineligible for that classification because of passage of this act would not be subject to the rollback tax. However, a new owner who fails to meet the income requirements of this act would be subject to the rollback tax.

Status: Signed into law on May 25, 1994.

Reserve Police Weapons May Wear Uniforms and Use Weapons While Performing Private Jobs Off-Duty (H. 3607, Rep. Hodges). This act allows reserve police officers to wear their uniforms and use their weapons and equipment while performing private jobs off-duty, subject to the permission of the law enforcement agency and the governing body by which they are employed.

Status: Signed into law on May 25, 1994.

Safe Cremation Act (H. 4756, Rep. Waites). This act provides requirements for purposes of authorizing and conducting cremations in South Carolina. Under these provisions, a person may authorize his own cremation and provide for the final disposition of his cremated remains, by executing a cremation authorization form. A person may revoke this authorization at any time by providing written notice to the funeral director which assisted the person in making these arrangements and the crematory authority designated to perform the cremation. At the time of death of a person who has executed a cremation authorization form, the person possessing the executed form and the person charged with making arrangements for final disposition of the decedent who has knowledge of the existence of the form must ensure that the decedent is cremated and that final instructions contained on the authorization form are carried out. The act lists other persons who also may serve as the deceased's authorizing agent and who may, in the absence of a pre-need cremation authorization, authorize the cremation or revoke the cremation authorization.

The act prohibits a crematory authority from cremating human remains until it receives a copy of the death certificate, a cremation

## Legislative Update, June 1, 1994

authorization form executed by the deceased on a pre-need basis or by the authorizing agent, a completed and executed burial transit permit, and a cremation permit. The act lists information which must be included in the authorization form, which includes, among other requirements, authorization from the authorizing agent and the funeral director or establishment for the crematory authority to perform the funeral; a statement that the human remains do not contain any material or implant which could be hazardous or damaging to the cremation chamber or to the person performing the cremation; the method, if known, by which disposition of the cremated remains is to take place, and a specific statement authorizing the crematory authority to proceed with the cremation upon receipt of the human remains. An authorizing agent, after executing a cremation authorization form, may revoke the authorization and within 12 hours of its execution instruct the funeral establishment to instruct the crematory authority to cancel the cremation. The crematory authority may not be held liable, except in cases of gross negligence, for the cremation, release or disposal of human remains if the authority acted in accordance with the provisions of this act.

A crematory authority is required to maintain at its place of business a permanent record of each cremation occurring at its facility, and must maintain for at least 10 years a record of all cremated remains disposed of by the authority. The act also lists requirements for delivery of bodies to crematory authorities and prohibits the cremation of an unidentified body for at least 30 days, with the medical examiner required to have those remains buried or interred in a cemetery in the county where the remains were found. The South Carolina State Board of Funeral Service may refuse to issue or renew the license or may suspend or revoke the license of a funeral director or embalmer who violates these provisions, and any person violating the provisions of this bill is subject to a civil fine not exceeding \$5,000.

**Status: Signed into law on May 27, 1994.**

**Health Care Cooperative Agreements** (H. 4775, Rep. Hodges). This act is designed to encourage the development of cooperative agreements between two or more health care providers for the sharing of health care services such as technology and facilities. With improved technology and services contributing to the escalating costs of health care, it is hoped that through adoption of these agreements, medical resources will be used more wisely and thus cost increases can be moderated.

Under these provisions, a health care provider, health provider network or health care purchaser may negotiate, enter into and conduct business pursuant to a cooperative agreement without being subject to challenge or scrutiny under any state antitrust law. Additionally, conduct in negotiating and entering into a cooperative agreement for which approval is sought from the state (through a certificate of public advantage) is immune from state antitrust laws, regardless of whether the



### Legislative Update, June 1, 1994

certificate is issued. The act provides that it is the General Assembly's intent that these provisions also immunize covered activities from challenge or scrutiny under federal antitrust laws.

A health care provider, health care purchaser or health provider network may negotiate and enter into cooperative agreements with other health care providers, health care purchasers or health provider networks if the likely benefits resulting from the agreements outweigh any likely disadvantages resulting from the agreement. Parties to a cooperative agreement may apply to the Department of Health and Environmental Control (DHEC) for a certificate of public advantage. The application must include an executed written copy of the cooperative agreement and describe the nature and scope of the cooperation in the agreement and any monetary or other consideration passing to a party under the agreement. Upon receiving the application, DHEC must forward a copy to the attorney general, who must review the application within 30 days after its receipt. The attorney general may advise DHEC to approve or deny the application, but failure on his part to notify DHEC within 30 days constitutes his approval of the request. DHEC must grant or deny the application within 60 days after receipt from the applicant or from the date of any public hearing held regarding the application.

DHEC must issue a certificate of public advantage for a cooperative agreement if the department determines that (1) the applicants have demonstrated that the likely benefits resulting from the agreement outweigh the agreement's likely disadvantages, and (2) the reduction in competition likely to result from the agreement is reasonably necessary to obtain the benefits likely to result. The act lists factors DHEC must consider in determining whether the agreement's advantages outweigh its disadvantages and whether the resulting reduction in competition is necessary to achieve the agreement's benefits.

DHEC also must actively monitor and regulate agreements approved under these provisions to ensure that the agreements remain in compliance with the conditions of approval. The department must charge an annual fee to cover the cost of monitoring and regulating these agreements. While the certificate is in effect, a report on the activities pursuant to the cooperative agreement must be filed with DHEC every 2 years, so that DHEC may determine whether the agreement continues to comply with the terms of the certificate. DHEC may revoke a certificate upon finding that (1) the agreement is not in substantial compliance with the terms of the application or the conditions of approval; (2) the likely benefits resulting from the certified agreement no longer outweigh any disadvantages attributable to any reduction in competition resulting from the agreement; or (3) DHEC's certification was obtained as a result of intentional misrepresentation to the department or as the result of coercion, threats or intimidation toward any party in the agreement. DHEC's decision to revoke a certificate is entitled to judicial review in accordance with the Administrative Procedures Act.

### Legislative Update, June 1, 1994

DHEC also must maintain on file all cooperative agreements for which certificates remain in effect. A party to the agreement who terminates the agreement must notify DHEC within 15 days of the termination. If all parties terminate their participation in the agreement, then DHEC must revoke the certificate for the agreement.

The provisions of this act do not exempt health care providers or purchasers from compliance with the state's certificate of need laws.

The act also establishes a task force under the Health Care Planning and Oversight Committee, with the task force responsible for conducting a study regarding open-heart surgery and therapeutic cardiac catheterization services for residents of South Carolina counties included in the Metropolitan Statistical Area (MSA) of another state (e.g., Aiken County, which is included in the Augusta, Georgia MSA). The study must consider, among other things, access to open-heart surgery for all South Carolinians, the total cost of care to the patient and his family and the impact on health care economics in South Carolina. The act provides for the task force members, who are appointed by the governor, and requires the task force's findings and recommendations to be submitted to the Health Care Planning and Oversight Committee and the state health planning committee by January 1, 1995. Until the task force issues its findings and recommendations, a facility is allowed to provide therapeutic cardiac catheterizations if the facility (1) has obtained a Certificate of Need for diagnostic cardiac catheterization before July 10, 1992 and filed to obtain a Certificate of Need for open heart surgical services before January 1, 1993; and (2) has a written open-heart surgery back-up agreement with a facility that provides open-heart surgery services located within a 30 minute (one-way) drive. If the findings and recommendations of the task force do not provide for continued performance of therapeutic cardiac catheterization at a facility performing such services under this provision, then the facility must cease performing these catheterizations within 30 days of the issuance of the findings and recommendations; however, if the findings and recommendations do provide for continued performance at that facility, and it (the facility) applies for a Certificate of Need within 30 days, then the facility may continue to provide the services until the final agency decision on the application for a Certificate of Need is issued.

The act also requires a committee appointed by the State Board of Medical Examiners to conduct an annual review of the provision of therapeutic cardiac catheterization services and related physician practice at any hospital providing these services under these provisions. The act provides for the committee's composition and provides that if the committee finds action by a physician at a facility where a review is being conducted creates an unreasonable risk to a patient, then the State Board of Medical Examiners may take action against the physician as considered necessary. Furthermore, when these provisions become effective, the Office of Research and Statistical Services of the Budget and Control Board must immediately initiate a study of facilities performing



## Legislative Update, June 1, 1994

therapeutic cardiac catheterizations without on-site open heart surgery services. The study must compare patient outcomes between these facilities and facilities with on-site open-heart surgery and determine if there is a statistically significant difference in patient outcomes. If the study concludes that the patients of a facility conducting therapeutic cardiac catheterization without on-site open-heart surgery services have a statistically significant unfavorable outcome compared to patients at facilities with open-heart surgery services, then the facility without open-heart surgery services must immediately discontinue performing these catheterizations.

**Status: Signed into law on May 25, 1994.**

Regulation of Abortion Clinics and Informed Consent for Abortion (S. 88, Sen. McConnell). This bill contains provisions pertaining to regulation of abortion clinics and procedures for obtaining an abortion in South Carolina.

The bill requires any facility where a second trimester or five or more first trimester abortions are performed in a month to be licensed by the Department of Health and Environmental Control (DHEC) to operate as an abortion clinic. DHEC must promulgate regulations for these facilities pertaining to such matters as sanitation, staff qualifications, procedures for providing emergency care and medical records and reports. The definition of "hospital" as pertains to those hospitals certified by DHEC to perform abortions is amended to include those hospitals licensed by DHEC in accordance with the State's Certification of Need and Health Facility Licensure Act. The bill also requires products of conception (i.e., fetal tissues and embryonic tissues) to be managed in accordance with requirements for pathological waste pursuant to the State's Infectious Waste Management Act.

As amended by the House, S. 88 also includes the "Woman's Right to Know Act" (H. 3267). {The House passed H. 3267 in early March but the bill has yet to come up for debate on the Senate Calendar.} Under these provisions, except in a medical emergency, an abortion cannot be performed unless the woman has been informed by the physician performing the abortion or other health professional of the procedure involved and the probable gestational age of the embryo or fetus at the time the abortion is to be performed. Additionally, the woman must be offered the opportunity to review materials printed by DHEC which inform the woman about abortion procedures and their risks; the characteristics of the embryo or fetus at 2-week intervals; alternatives to abortion, agencies which provide prenatal care, childbirth and neo-natal care benefits; and mechanisms for obtaining child support. Once a woman has acknowledged receiving these materials, she must wait 1 hour before obtaining an abortion; however, the 1-hour waiting period is not required in a medical emergency or if the woman acknowledges receiving these materials from the clinic by mail or picking up the materials at a local health department at



## Legislative Update, June 1, 1994

least 1 hour before the abortion is scheduled to be performed. Clinics must maintain for three years the woman's written verification that the information was provided to her and received by her. Acknowledgement of reception of these materials is not required if the abortion is performed pursuant to a court order, or if the woman is mentally retarded and her parents, legal guardian or legal representative consent to the abortion. If the abortion is to be performed on an unemancipated minor, then the information must be furnished to the parent(s) or a person standing in place of the parents to the minor for a period of at least 60 days who then must acknowledge receiving these materials before the abortion can be performed. Abortion clinics and facilities are exempt from providing this information if it (the clinic or facility), through no fault of its own, does not have the information and can demonstrate through written evidence the unavailability of those materials.

A person convicted of violating these provisions a first or second time must be fined not more than \$1,000, while a third or subsequent conviction results in a fine not exceeding \$5,000 and/or imprisonment not exceeding 3 years. The bill also lists provisions governing the disclosure of the name of a woman bringing an action under these provisions and exempts from disclosure under the Freedom of Information Act the name, address and telephone number of a person in whose name a motor vehicle license plate is registered.

**Status: Enrolled for Ratification May 26, 1994.**

**School to Work Transition Act** (H. 4681, Rep. McElveen). This bill is designed to enact a "school to work" system in South Carolina, to better prepare students not bound for college with the skills necessary to enter an increasingly complex, more demanding workplace.

As part of a school to work system, the State Board of Education must establish a structure for preparing students for employment and lifelong learning which expands upon the current "Tech Prep" model, to include (1) quality schooling with a rigorous curriculum; (2) career counseling; (3) work exploration and experience; and (4) structured work-based learning. Emphasis in developing this system must be on a structure flexible enough to meet local school needs and available to all students as needed and appropriate. Students and their parents would make the decision as to which track a student must follow, with students allowed to transfer between "Tech Prep" and "College Prep" tracks within guidelines established by the State Board of Education to allow for transfer up to the senior year in high school. The State Board of Education must, beginning with the upcoming school year, establish by regulation quality schooling, which must at a minimum include a rigorous, relevant academic curriculum and changes in vocational educational programs. The bill lists features which must be included in the curriculum and programs and also requires the State Board of Education, beginning in school year 1996-1997,

### Legislative Update, June 1, 1994

to establish regulations for career exploration and counseling, a range of mentoring opportunities, and structured work-based learning opportunities.

The school-to-work system must include a program of accountability of student progress to ensure quality, to include a survey of Tech Prep graduates in order to obtain such information as the rate of hire and starting wages or salaries. Additionally, the State Employment Security Commission must work with the Department of Education, the State Board for Technical and Comprehensive Education and the Commission on Higher Education to assist in the planning and promotion of school-to-work opportunities by, among other things, serving as a contact point for employers seeking information on school-to-work activities and identifying potential employers to participate in the work-based learning programs sponsored under this act. The Employment Security Commission must provide the link between employers in South Carolina and youth seeking employment.

These provisions do not apply to either private or home schools.

Status: Ordered enrolled for ratification May 26, 1994.



Legislative Update, June 1, 1994

(2) Legislation Passed by the House and Amended by the Senate or  
Legislation Still in Conference Committee  
(as of Tuesday, May 31)

Listed below is legislation passed by the House which also has been approved, with amendments, by the Senate and then returned to the House, or which is still in Conference Committee.

Schoolhouse Safety Alliance Act (H. 4414, Rep. Phillips). This bill represents a comprehensive approach to addressing the problem of school violence, by focusing on collaboration to prevent such violence, promoting parental responsibility and judicial response.

(I) Collaboration to Prevent School Violence

---Establishes a statewide Schoolhouse Safety Resource Center (hereafter called "Center") at the State Department of Education, with the center's mission being to provide information, assistance and training on violence prevention and crisis management to the State's schools. The center must review the best strategies in violence prevention and intervention and also provide information on other safety concerns such as accidents and medical emergencies.

---Based on review of the best practices in violence prevention and intervention, the Department, working through the Center, must provide or contract for statewide school administrator training in the best practices for understanding, preventing and addressing school violence. The Department must develop or select professional programs for faculty and designated staff of all schools to be trained in appropriate techniques, practices and behavior to prevent and address school violence, including mediation.

---Establishes a School Violence Prevention Advisory Committee, which must provide technical and advisory assistance to the Center. The committee, consisting of representatives of various state agencies, local education and law enforcement officials, and others, must recommend changes to each agency's regulations or provisions of law which would encourage prevention programs, non-putative responses and earlier intervention for juveniles who are truant, runaways or exhibit aggressive behavior

## Legislative Update, June 1, 1994

---Requires the State Board of Education, through the Department of Education, to develop regulations requiring each district and school to develop a strategic violence prevention plan to establish goals for addressing the underlying causes of violence and develop plans for addressing school violence. The plans for addressing school violence (Schoolhouse Safety Alliance plans) at the district level must be developed by a committee appointed by the district superintendent, while the plans at the school level must be developed by a committee formed by the principal. These plans must be five-year plans outlining violence reduction activities, with goals set at one-year intervals.

---Requires each school district to institute case management teams in each school, with these teams consisting of teachers, school administrators, parents, counselors and representatives of health and social service agencies. These teams are to work as units on behalf of students displaying signs of recurrent aggressive and violent behavior. Disciplinary records of students with recurrent bullying, aggressive and violent behaviors must be kept and must show steps schools have taken to address occurrences of these behaviors.

---Requires the Department, through the Center, to develop conflict resolution strategies to be taught to juveniles and young adults sentenced as youthful offenders in correctional facilities.

### (II) Parental Responsibility to Prevent School Violence

---Requires each school district to establish a procedure for the schools in that district to convene case management teams to assist children identified as in need of guidance or counseling to prevent violent behavior. Schools must consult with parents at the earliest instances of recurring problems behaviors and keep them informed when such behaviors continue. Parents of children identified as candidates for case management must participate in case management meetings and in seeking services recommended by the case management team.

### (III) Judicial Responses to School Violence

---Requires school officials to report to law enforcement officials criminal behavior which results in violence or poses a direct and serious threat to safety or oneself or others in school. Also requires a law enforcement officer who takes a child into custody for an offense which would be a misdemeanor or felony if committed by an adult (except for traffic or wildlife violations over which courts other than the family court have concurrent jurisdiction) to also notify the principal of the school where the child is enrolled of the nature of the offense.

---Grants to the family court jurisdiction to order parents of children identified as in need of services or counseling to prevent violent behavior to appear before it and, upon finding the child's



## Legislative Update, June 1, 1994

behavior can be changed, to order an assessment of the family or family participation in treatment or services to improve the behavior.

---Requires acceptable school attendance and appropriate behavior to be integral parts of probation orders and requires probation and parole counselors to assist in re-enrollment of all their clients who are children in the public schools upon the child's release from confinement facilities.

---Expands the conditions under which a child is eligible for detention in a secure detention facility, so as to include a child who had in his possession a deadly weapon and a child who has a demonstrable recent record of wilful failure to comply with prior placement orders. Also provides that if an officer does not consent to release of a child, then his parents or other responsible adult may apply to any family court judge within the circuit for an ex parte order of release of a child.

**Status:** Passed the House on March 23; Approved by the Senate, with amendments, on May 26, and then returned to the House for consideration of Senate amendments.

Nationwide Interstate Banking (H. 4566, Rep. Jennings). This bill would open South Carolina to nationwide interstate banking in 1996, allowing out-of-state bank holding companies which do not have a South Carolina bank subsidiary to acquire a South Carolina bank holding company or a South Carolina bank, contingent on the acquisition being approved by the State Board of Financial Institutions.

**Status:** Passed the House on March 29; Approved, with Amendments, by the Senate on May 31.

1994-1995 General Appropriation Act (H. 4820, House Ways and Means Committee). This bill is the proposed state budget for fiscal year 1995 (July 1, 1994 through June 30, 1995). A summary of some of the appropriation highlights and permanent provisions in this bill as approved under the House version can be found below. At press time, the House and Senate were deadlocked over whether the Barnwell Facility should remain open to out-of-region waste for an additional 18 months (July 1994 through the end of 1995), with the Senate favoring the extension but the House opposing it. (Because of space limitations, only a limited number of budget highlights from the House's version are printed in this Update; for a more detailed summary, please see the March 22 Update.)

### (I) Appropriation Increases

---\$63 million for public education, to, among other things, fully fund the Education Finance Act, cover inflation of 2.4 percent, and fully fund the southeastern states' average teacher salary of \$30,457.

## Legislative Update, June 1, 1994

---\$40.9 million for higher education, of which \$32.5 million is appropriated for formula funding, \$1.8 million is for the Southeastern Manufacturing Technology Center, and \$6.6 million is to pay for the "Other Funds" share (tuition and fees) of the pay plan.

---\$24.9 million to maintain the current Medicaid program.

---\$5.2 million additional for the Department of Juvenile Justice to expand detention center programs and meet other related needs.

---Additional \$23.7 million for the Department of Corrections for opening costs and operations of several facilities and community control centers.

---Additional \$6.7 million for the Department of Disabilities and Special Needs.

### (II) Permanent Provisos

---Requires driver's licenses to be renewed every 5 years, instead of every 4 years, with the cost of obtaining a new or renewed license increasing from \$10 to \$12.50. The fee to replace a lost driver's license increases from 50 cents to \$3.00.

---Revises eligibility requirements for dealer license plates, with a dealer selling 20 vehicles a year eligible for 2 such plates and allowed to purchase an additional plate for every 15 vehicles sold beyond the initial 20. The cost of dealer plates is \$20 each.

---Requires at least 50 percent of a county's apportionment of gas tax monies under the "C" funds program to be applied to the state highway system, while up to 50 percent of these monies may be used for local paving and improvements.

---Repeals the state's mandatory vehicle inspection law.

---Prescribes criminal and civil penalties for insurance fraud, with the crime being a misdemeanor upon first offense and a felony for a second or subsequent violation. Also establishes an Insurance Fraud Division within the Attorney General's Office to prosecute insurance fraud and requires the State Law Enforcement Division to investigate cases of alleged insurance fraud.

---Prohibits state-supported colleges and universities, including technical colleges, from increasing tuition and fees charged to in-state undergraduate students until the institutions recapture and maintain 100 percent of total education and general cost for out-of-state undergraduate students.

---Prescribes criminal and civil penalties for insurance fraud, with the crime being a misdemeanor upon first offense and a felony for a second



## Legislative Update, June 1, 1994

or subsequent offense. Also establishes an insurance fraud division within the Attorney General's Office to prosecute insurance fraud and requires the State Law Enforcement Division to investigate cases of alleged fraud.

**Status: In Conference Committee.**

**Uniform Interstate Family Support Act** (H. 4844, Rep. Shissias). This bill replaces the current Uniform Reciprocal Enforcement of Support Act with the Uniform Interstate Family Support Act. This new legislation is designed to assist with the interstate enforcement of child or spouse orders and to provide civil and criminal enforcement procedures. Among the features of this legislation are the following:

---Specifies that the Family Court is the tribunal, or entity, of South Carolina authorized to establish, enforce and modify support orders to determine parentage. The court also may serve as an initiating tribunal under these provisions to request a tribunal (i.e., court, administrative agency, etc.) of another state to enforce a modify a child or spouse support order of another state.

---Requires employers who do business in South Carolina to comply with an income withholding order issued in another state as if the order had been issued by the South Carolina Family Court.

---Allows the governor of South Carolina to demand that the governor of another state surrender an individual found in the other state who is charged criminally in South Carolina with having failed to provide for the support of an obligee. South Carolina's governor also may surrender an individual found in this state who is charged criminally in another state with having failed to provide for the support of an obligee upon the demand of another state's governor.

**Status: Passed the House on April 20; Approved, with Amendments, by the Senate on May 26.**

Legislative Update, June 1, 1994

(3) Status of Other Legislation  
(as of Tuesday, May 31)

The following is an abbreviated summary of the status of various other bills by subject title (e.g., auto insurance, state lottery, etc.)

Auto Insurance

- H. 3246 (Choice No Fault Insurance)---On House Contested Calendar.
- H. 3421 (Auto Insurance Reforms)-----On House Contested Calendar.
- H. 4972 (Operations--Reinsurance Facility)  
---On House Uncontested Calendar.

Child Support/Welfare Reform

- H. 4835 (Welfare Reform Measures)---In Senate General Committee.
- H. 4836 (Omnibus Child Support Enf. Act)--On Senate Statewide Second  
Reading Calendar.
- H. 4837 (Welfare Reform Measures)---In Senate General Committee.

Confederate Flag

- H. 4225 (Confederate War Memorial)---In House Invitations and Memorial  
Resolutions Committee.
- H. 4408 (Flag Referendum)
- H. 4533 (Removal of Flag from State House)
- H. 4623 (Flag Referendum)-----All three in House Judiciary  
Committee.

Driving Under Influence (DUI)

- H. 3345 (Admin. License Suspension)---On House Contested Calendar.

Elections/Elective Office/Voter Registration

- H. 3147 (Primary Moved Permanently to June)---In Senate Judiciary  
Committee.
- H. 3290 (Term Limits)-----On House Contested Calendar.
- H. 4887 (Joint Election--Governor/Lt. Gov)
- H. 4888 (Joint Election--Governor/Lt. Gov)  
---On House Contested Calendar.
- H. 4905 (Implementation of Federal Motor Voter Act)  
---On House Contested Calendar.



Legislative Update, June 1, 1994

Higher Education

- H. 4636 (Higher Ed. Coordinating Council)  
---In House Education and Public Works  
Committee
- H. 4986 (Committee to Study Higher Ed.)  
---On House Calendar (under  
"concurrent resolutions")
- S. 1366 (Reorganization of Commission on Higher Ed.)  
---In House Education and Public Works  
Committee.

Juvenile Crime

- H. 5058 (School Safety/Juv. Justice)--In Senate Judiciary Committee.

Property Tax Relief

- H. 4633 (Tax Exemption for School Operations)  
H. 5023 (Abolishment of Property Taxes)  
H. 5088 (School Bond Tax Relief)---All three measures in House Ways and  
Means Committee.

State Holidays

- S. 464 (Martin Luther King Holiday)---On House Contested Calendar.

State Lottery

- H. 3765 (Cons. Amendment---Lottery)---On House Contested Calendar.

Workers' Compensation

- S. 540 (Workers' Compensation Reform)--On House Contested Calendar.

Total copies 550  
Total cost \$ 319.00  
Cost per copy \$ .58  
Date 6-1-94  
S. C. Legislative Council